

Date

ROUTING AND TRANSMITTAL SLIP

28 AUG 87

TO: (Name, office symbol, room number,
building, Agency/Post)

Initials

Date

1. DIRECTOR OF SECURITY

2.

3.

4.

5.

Action	File	Note and Return
Approval	For Clearance	Per Conversation
As Requested	For Correction	Prepare Reply
Circulate	For Your Information	See Me
Comment	Investigate	Signature
Coordination	Justify	

REMARKS

#1 - FOR ACTION, AS APPROPRIATE.

cc: C/IRMD/OIT
C/IPD/DA

3 Sie 8/28/87

STAT

STAT

DO NOT use this form as a RECORD of approvals, concurrences, disposals,
clearances, and similar actions

FROM: (Name, org. symbol, Agency/Post)

Room No.—Bldg.

EXA/DDA

Phone No.

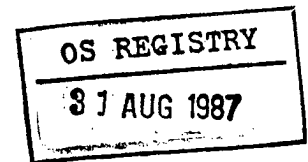
5041-102

☆ U.S. GPO: 1986-491-247/40012

OPTIONAL FORM 41 (Rev. 7-76)
Prescribed by GSA
FPMR (41 CFR) 101-11.206



Information Security Oversight Office
Washington, DC 20405



August 21, 1987

Dear Mr. Donnelly:

On August 17, 1987, the National Federation of Federal Employees brought suit in the United States District Court for the District of Columbia* challenging the constitutionality and legality of the Standard Form 189, "Classified Information Nondisclosure Agreement." While we are confident that the Government will prevail in this litigation, until further notice agencies should follow these instructions with respect to the execution and implementation of the SF 189 pending some resolution of the matters in litigation.

1. As of this date, do not withdraw a person's clearance nor deny his or her access to classified information solely as a consequence of his or her refusal to sign the SF 189. However, no one should be left with the impression that this is anything more than a temporary accommodation to the lawsuit. Upon an inquiry, persons should be advised only that clearances are temporarily not being withdrawn at the direction of the Information Security Oversight Office (ISOO) pending some resolution of the lawsuit challenging the legality of the SF 189. However, any person who refuses to sign the SF 189 but continues to have access to classified information under these temporary instructions should be briefed individually on his or her responsibility to protect the information from unauthorized disclosure and the consequences that may follow from his or her failure to meet this responsibility.

2. Agencies should continue to process the SF 189 for those employees who have not yet executed it. Only those conditions discussed in paragraph 1, above, should be amended pending these temporary instructions.

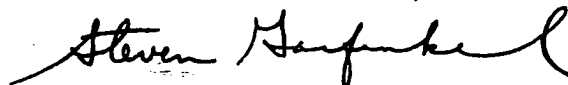
*National Federation of Federal Employees v. United States of America, et al., Civil Action No. 87-2284-OG, United States District Court for the District of Columbia.

-2-

3. Because the Standard Form 189-A, "Classified Information Nondisclosure Agreement (Industrial/Commercial/Non-Government)," is not the subject of the current litigation, agencies that are involved in the implementation of these forms should continue with their prompt execution as before.

Because of the immediacy of these instructions, we urge you to transmit them to all affected components of your agency by the most expeditious means. We are enclosing with this letter a copy of ISOO's recent regulatory change to the definition of "classifiable" as it appears in the SF 189. This definition, which appeared in the August 11, 1987 edition of the Federal Register, slightly amends the regulation published on August 3, 1987, which ISOO transmitted to you by letter of August 4. Please direct your questions to ISOO at (202) 535-7251.

Sincerely,


Steven Garfinkel
Director

Mr. William F. Donnelly
Deputy Director for Administration
Central Intelligence Agency
Washington, DC 20505

Enclosure

Federal Register

Tuesday
August 11, 1987

Part III

**Information Security
Oversight Office**

32 CFR Part 2003
**National Security Information Standard
Forms; Final Rule**

**INFORMATION SECURITY OVERSIGHT
OFFICE****32 CFR Part 2003****National Security Information
Standard Forms****AGENCY:** Information Security Oversight
Office (ISOO).**ACTION:** Final rule.

SUMMARY: This is an amendment to 32 CFR 2003.20. The purpose of this amendment is to add at the end of paragraph (h)(1) a sentence to clarify further the definition of "classifiable" as used in the Standard Form 189, "Classified Information Nondisclosure Agreement."

EFFECTIVE DATE: August 11, 1987.

FOR FURTHER INFORMATION CONTACT:
Steven Garfinkel, Director, ISOO.
Telephone: (202) 535-7251.

SUPPLEMENTARY INFORMATION: This amendment to 32 CFR Part 2003 is issued pursuant to § 5.2(b)(7) of Executive Order 12356.

List of Subjects in 32 CFR Part 2003

Classified information, Executive orders, Information, National security information, Security information.

32 CFR Part 2003 is amended as follows:

**PART 2003—NATIONAL SECURITY
INFORMATION—STANDARD FORMS**

1. The authority citation for 32 CFR Part 2003 continues to read:

Authority: Sec. 5.2(b)(7) of E.O. 12356.

Subpart B—Prescribed Forms

2. Section 2003.20(h)(1) is revised to read as follows:

§ 2003.20 [Amended]

(h) * * *

(1) As used in paragraph 1 of SF 189, the term, "classifiable information" refers to information that meets all the requirements for classification under Executive Order 12356, or under any other Executive order or statute that prohibits the unauthorized disclosure of

information in the interest of national security, but which, as a result of negligence, time constraints, error, lack of opportunity or oversight, has not been marked as classified information. A party to SF 189 would violate its nondisclosure provisions only if he or she disclosed without authorization classified information or information that he or she knew, or reasonably should have known, was classified, although it did not yet include required classification markings. The term "classifiable" does not include any information that is not otherwise required by statute or Executive order to be protected from unauthorized disclosure in the interest of national security.

Dated: August 6, 1987.

Steven Garfinkel,

Director, Information Security Oversight
Office.

[FR Doc. 87-18210 Filed 8-10-87; 8:45 am]

BILLING CODE 6820-KC-M



Information Security Oversight Office
Washington, DC 20405

NOTICE

In order to help clear up some of the confusion that has resulted from the recent controversy over the Standard Form 189, "Classified Information Nondisclosure Agreement," the Information Security Oversight Office will sponsor a short briefing and a question and answer session on Thursday, September 3, 1987, at 10:00 a.m. This unclassified briefing will be held in the auditorium of the General Services Administration Building at Eighteenth and F Streets, Northwest. The auditorium is located off the first floor lobby. Your agency's questions, either submitted in writing before the briefing or asked at that time, are most welcome.


Steven Garfinkel